

REMARKS

This paper is responsive to the final Office Action dated June 23, 2008, relating to the above-identified application. Applicant thanks for the Examiner for withdrawing the objection as to the drawings, the claim objection directed to claims 4, 6, 8, 11, 17, and 20, and rejection of claims 1-21 under 35 U.S.C. § 112.

Only the 35 U.S.C. § 103 rejection over U.S. Patent No. 6,014,438 ("Quattrocchi") in view of U.S. Patent No. 6,528,321 ("Fitzgerald") remains. Applicant thanks the Examiner for the useful telephone interview held on August 21, 2008. Applicant brought to the attention of the Examiner the following portion of Quattrocchi:

FIGS. 4A and 4B schematically illustrate one form of blood specimen collection card 26 which is preferably configured in a diagnostic form having three (3) parts. The first part is a removable top sheet 40. Perforations 42 are preferably provided to enable the person being tested to remove the top sheet 40 from the remainder of the collection card 26. Printed on the top sheet 40 is information that the person being tested needs to retrain after the remainder of the collection card 26 is sent for analysis. Col. 6, ll. 54-63.

The second part of collection card 26 is an informed consent form 52. The informed consent form 52 contains a series of statements that the person being tested must read, understand, and acknowledge before a laboratory can perform any test on the specimen. Col. 7, ll. 23-26.

It its illustrated form, the third part of collection card 26 is a blood specimen sample sheet 56. Sample sheet 56 is at least in part a cotton fiber filter paper preferably like that manufactured by Schleicher and Schuell. Sample sheet 56 has a blood collection area specifically designated thereon. In the illustrated embodiment, four similarly shaped sections 58 are outlined thereon for deposit of a specimen in each section. The sections 58 are outlined using black biological ink so that the ink will not interfere with the specimen and an accurate test result can be obtained. Col. 7, ll. 32-42.

As described in the specification, sections 58 as seen in Figs 4A-4B (reproduced below) are nothing more than an ink outline on a piece of flat paper. There is no opening and no aperture on the paper. What appears as small circles has misled the Examiner into an interpretation that apertures/openings existed.

FIG. 4A

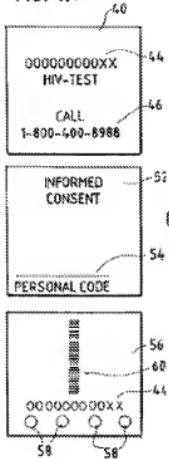
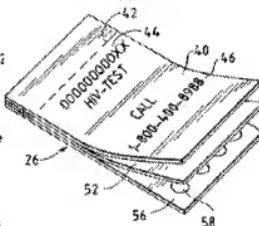


FIG. 4B



In an effort to reach allowable subject matter at this interlocutory stage, Applicant has focused only on the most obvious claim element not shown in the cited reference because of a misinterpretation of a figure. Claims 1-3 directed only to the fluid collector without apertures on a superstrate are cancelled at this stage. Only the claims directed to the fluid collector device (claims 4-7) and a kit with the fluid collector device (claims 8-15, 20-21, and

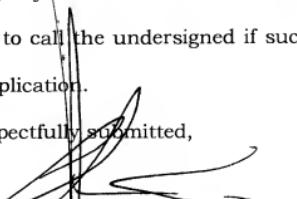
42) remain. Each of these claims includes a superstrate with apertures and openings for giving access to the substrate.

As a reminder, the Examiner's argument action reads, "Quattrocchi discloses having an absorbent sample sheet (56), which has small openings to allow the fluid to flow through the sheet [emphasis added]. Quattrocchi further discloses in col. 10, lines 33–43, that such specimen sections may be interpreted as apertures because he discloses having the blood sample 'fill the specimen section on the card.'" See p. 7 of June 23, 2008, Office Action. Quattrocchi does not allow the fluid to flow through the sheet. Element 58 shown above are rings of ink, not apertures or openings from providing access between the different sheets. The rejection is improper. Applicant respectfully request withdrawal of the rejection.

Because this response is presented at the interlocutory stage, it is only directed to a single missing element. Applicant hereby reasserts all previously articulated grounds of rejection and also traverses any rejection/judicial notice in a timely fashion.

The Commissioner is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No. 22-0259 or any payment in connection with this communication, including any fees for extension of time, that may be required. The Examiner is invited to call the undersigned if such action might expedite the prosecution of this application.

Respectfully submitted,

By: 
Alain Villeneuve
Reg. No. L-215

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Vedder Price P.C.
222 N. LaSalle St., Suite 2600
Chicago, Illinois 60601-1003
(312) 609-7745